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9200/1623

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Bashir Zikria, et al
Serial No.: 08/837840
Filed: April 22, 1997
For: Capillary Membrane Stabilization And Reduction
Of Tissue Injury . . .
Group: 1023
Examiner: Gary Kunz
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SEP 17 2004
TECH CENTER 1600/2900

September 4, 2004

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION
(MPEP 711.03(c) II AND 37 CFR SECTION 1.181)

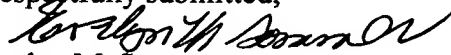
1. The undersigned received a Notice of Abandonment of the above-identified application dated August 9, 2004, for "failure to timely pay the requested issue fee and publication fee . . . within the statutory period of three months from the mailing of the notice of allowance." (Exhibit A)
2. The Notice of Allowance and Fees Due was never received.
3. On May 28, 2004, and June 28, 2004, the undersigned forwarded status letters to the Patent and Trademark Office inquiring into the status of the application (Exhibits B and C). No response was ever received to the requests for status.
4. As no Notice of Allowance was ever received, nothing was docketed for response.

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5. When an office action or any matter requiring response is required, several entries are made directly on the face of the office action (Exhibit D). These dates are then entered into a docket book for taking up for review and/or action (see enclosed pages of docket book, Exhibits E-G). An example of the docketing of an issue fee is seen from the attached Exhibits H and I.
6. As no Notice of Allowance was received, there could not have been nor was there any reason to docket the same.
7. It is noted that the office action doesn't reference the date of the Notice of Allowance.
8. Immediately upon receipt of the missing papers, the fees will be paid.
9. No fee is required.
10. The undersigned declares that all statements made herein are true and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this document and the registration to which it relates.

It is respectfully requested that this Petition be granted and that the undersigned be notified of the status of the application and/or when a patent will be issued.

Respectfully submitted,



Evelyn M. Sommer

Registration No. 19603

Attorney for Applicants

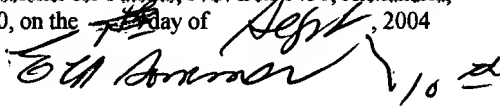
250 Park Avenue Room 825

New York, New York 10022

212-527-2657

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/837,840	04/22/1997	BASHIR ZIKRIA		8063

43399 7590 08/09/2004
EVELYN M. SOMMER
825 THIRD AVENUE, 30TH FLOOR
NEW YORK, NY 10022

EXAMINER

OWENS JR, HOWARD V

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 08/09/2004

17

Please find below and/or attached an Office communication concerning this application or proceeding.

SEP 17 2004

TECH CENTER 1600/2900



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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08/837840

SEP 17 2004

TECH CENTER 1600/2900

EXAMINER

ART UNIT	PAPER NUMBER
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17

DATE MAILED:

NOTICE OF ABANDONMENT

ABANDONMENT
COMMISSIONER PERSON IS:
TOM J. KINS
305-8330

This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____
- ☐ A reply (with Certificate of Mailing or Transmission of _____) was received on _____ which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
- ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- ☐ A reply was received on _____, but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).
- ☐ No reply has been received.
- ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85)(or Notice of Publication Fee Due).
- ☐ The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
The issue fee by 37 CFR 1.18 is \$ _____. The publication fee, if required, by 37 CFR 1.18(d) is \$ _____.
- ☒ The issue fee and publication fee, if applicable, have not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).
- ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
- ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below: _____

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Bashir Zikria, et al
Serial No.: 08/837840
Filed: April 22, 1997
For: Capillary Membrane Stabilization And Reduction
Of Tissue Injury . . .
Group: 1023
Examiner: Gary Kunz

Mail Stop Status Request
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

May 26, 2004

SEP 17 2004
TECH CENTER 1600/2800

Status Letter

The above-entitled application was appealed to the Board of Patent Appeals and Interferences ("Board").

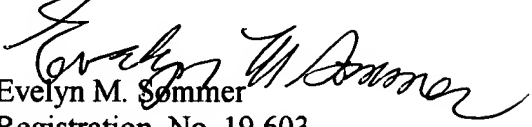
On May 28, 2002, the Board issued a decision in which the rejection of claims 1-20, all of the claims in the case, was **reversed**. Due to problems with the undersigned's mailing address, the decision was not received for some time. The Board and the Office were contacted and it was delivered, the matter of the address was completely resolved.

To date, however, no patent has been issued on the application nor any reason provided why this has not happened.

Exhibits B

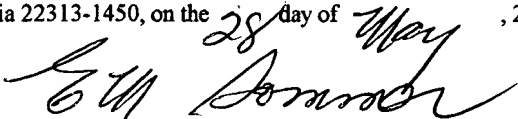
It is respectfully requested that the undersigned be notified as soon as possible of the status of the application and/or when the patent will issue.

Respectfully submitted,


Evelyn M. Sommer
Registration, No. 19,603
Attorney for Applicants
250 Park Avenue 8th Floor
New York, New York 10022
212-527-2657

Certificate of Mailing

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Bashir Zikria, et al
Serial No.: 08/837840
Filed: April 22, 1997
For: Capillary Membrane Stabilization And Reduction
Of Tissue Injury . . .
Group: 1023
Examiner: Gary Kunz
Mail S top Status Request
Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
June 25, 2004

SEP 17 2004
TECH CENTER 1600/2900

Second Status Request

The above-entitled application was appealed to the Board of Patent Appeals and Interferences ("Board").

On May 28, 2002, the Board issued a decision in which the rejection of claims 1-20, all of the claims in the case, was reversed. Due to problems with the undersigned's mailing address the decision was not received for some time. The Board and the Office were contacted and it was delivered, the matter of the address was completely resolved.

To date, however, no patent has been issued on the application nor any reason provided why this has not happened.

Exhibited

It is respectfully requested that the undersigned be notified as soon as possible of the status of the application and/or when the patent will issue.

A copy of the previous status letter is enclosed.

Respectfully submitted,



Evelyn M. Sommer

Registration No. 19,603

Attorney for Applicants

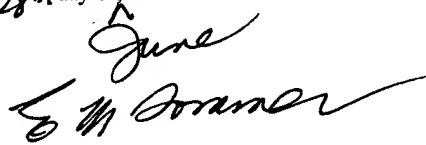
250 Park Avenue Room 825

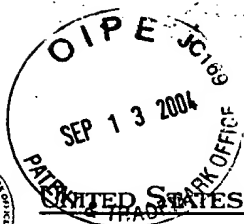
New York, New York 10022

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Virginia 22313-1450, on the 28th day of, 2004





UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 06/13/2003
Evelyn M. Sommer
825 Third Avenue
30th Floor
New York, NY 10022-7519

SEP 17 2004

TECH CENTER 1600/2900

EXAMINER

BROWN, MICHAEL A

ART UNIT CLASS-SUBCLASS

3764

128-848000

DATE MAILED: 06/13/2003

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/967,562	11/12/1997	BASHIR ZIKRIA		7262

TITLE OF INVENTION: ANTI-SNORING APPARATUS

7/15/03
8/15/03
9/15/03

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$650	\$0	\$650	09/15/2003

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.
- ☐ Applicant claims SMALL ENTITY status.
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

Handwritten signature: T. Lubert



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SEP 17 2004

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Exhibits E

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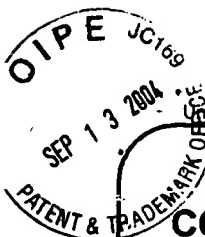
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Nature Scientific Fat handler (5) Y33 416

Joas 29/1/190 - 3 mo IP ✓

Exhibit I



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**CHANGE OF
CORRESPONDENCE ADDRESS
Application**Address to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450.

Application Number

08/37840

Filing Date

4/22/97

First Named Inventor

Bashir ZIRRIA

Art Unit

1023

Examiner Name

GARY KUNZ

Attorney Docket Number

ZIRRIA

Please change the Correspondence Address for the above-identified patent application to:



Customer Number :

0000 43399

OR

Firm or
Individual Name

EVELYN M. SOMMER

Address

250 PARK AVE

Address

RM 825

City

New York

State

NY

Zip

10022

Country

USA

Telephone

212 527 2657

Fax

203 358-0795

This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

I am the:



Applicant/Inventor



Assignee of record of the entire interest.

Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).



Attorney or Agent of record. Registration Number

19,603



Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number

SEP 17 2004

TECH CENTER 1800/2800

Typed or Printed
Name

EVELYN M. SOMMER

Signature

Evelyn M Sommer

Date

Sep 23, 2004

Telephone

212 527-2657

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.



*Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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